

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

FILED

OCT 17 2018

Clerk, U.S. District Court
District Of Montana
Helena

MICHAEL DiFRANCESCO, on
behalf of himself and others similarly
situated,

Plaintiff,

vs.

TIM FOX, in his official capacity as
Attorney General of Montana; SARAH
GARCIA, in her official capacity as
Administrator of the Motor Vehicle
Division; and MICHELE
SNOWBERGER, in her official
capacity as Bureau Chief of the Driver
Services Bureau,

Defendants.

No. CV 17-66-BU-SEH

ORDER

The Court ordered a status conference¹ and a hearing² on Plaintiff's Motion to Certify Class³ to be held on October 16, 2018.

¹ Doc. 33.

² Doc. 34.

³ Doc. 18.

The status conference with counsel to address issues directly related to Plaintiff's Motion to Certify Class was conducted as scheduled.

The Court determined at the hearing to defer address of the Motion to Certify Class pending supplementation of the record by the parties with materials as ordered.

Upon the record made and for the reasons stated in open court the class to which certification was sought, namely:

[A]ll Montana drivers who currently have, or will have, at least one driver's license suspension because of unpaid court debts and who did not, or will not, receive an ability-to-pay hearing before the suspension,⁴

was determined to be unacceptable, inappropriate, and inadequate for certification.

ORDERED:

1. The Plaintiff shall file an amended motion for class certification on or before November 2, 2018.

2. Plaintiff shall have the option, if deemed appropriate, on or before November 2, 2018, to file an amended complaint setting forth modifications or changes in allegations in the complaint necessary and appropriate and in support

⁴ Doc. 18 at 2.

of the revised proposed class certification.

3. Each party shall have to and including October 26, 2018, in which to file a brief in support of his or its position on the issue of whether a justiciable controversy exists for persons asserted in the present class certification request⁵ for “all Montana drivers who . . . will have, at least one driver’s license suspension because of unpaid court debts and who . . . will not, receive an ability-to-pay hearing before suspension.”⁶

4. The parties shall meet and confer on or before November 2, 2018, to address, agree upon, and submit to the Court a list identifying by appropriate citation each and every United States or Montana constitutional provision or statute of the state of Montana the Plaintiff claims to have been violated or not appropriately applied in address or disposition of any claim asserted by Plaintiff or on behalf of any class member.

5. On or before November 2, 2018, the Plaintiff shall file a statement identifying by date of infraction and citation of statute, each and every driving citation, ticket, or driving infraction asserted by Plaintiff on his own behalf, or on

⁵ Doc. 18.

⁶ Plaintiff’s counsel suggested at the October 16, 2018, hearing that the revised class certification to be submitted would not include “drivers who . . . will have . . . [a suspension]” and “who will not receive an ability-to-pay hearing before suspension.”

behalf of proposed class members, as a basis for or relevant to any and all claims asserted in the complaint.

6. On or before November 2, 2018, Plaintiff shall file a report identifying by: (1) title of court; (2) cause number; (3) date of filing; and (4) identification of parties, for each case known to counsel that has presented or asserted claims or issues which are the same as or substantially similar to the claims of Plaintiff or proposed class members in this case.

7. Upon receipt of the submissions as ordered in paragraphs 1 through 6 above, and any other submissions deemed necessary and appropriate, the Court will take up and address anew the revised class certification request, including conduct of a further hearing or hearings if ordered by the Court.

DATED this 17th day of October, 2018.


SAM E. HADDON
United States District Judge